No. __

06155 MAY 15 2007

OFFICE OF THE CLERK

In the Supreme Court of the United States

ILSE HEINEMEYER,

Petitioner

v.

TOWNSHIP OF SCOTCH PLAINS,

Respondent

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

Ilse Heinemeyer, Pro Se
1 380 Terrill Rd.
Scotch Plains, N.J. 07076
(908) 322-1788
Petitioner

QUESTIONS PRESENTED

1. Whether the false, fraudulent statements made knowingly and with intent used the defense that a Writ of Certiorari was filed and denied therefore Petitioner had full hearing in the State and Federal Courts, prejudice the United States Court of Appeals for the Third Circuit Court of Appeals to dismiss Motion for Summary Judgment with prejudice and marked "Closed"?

2. Whether a government Corporation has the right to keep money that does not belong to them from an unlawful assessment, lien billed to two different property owners for the same non-existent property a violation 18 U.S.C.Sec. 1961 ,18 U.S.C. 1341 (Mail Fraud) and 28 U.S.C. 1341, 2106 and or 1254 (1) (2)?

3. Whether it is repugnant to and a violation of the First Amendment to the U.S. Constitution's Freedom of Speech that a Petition produced on a typewriter is not accepted, and to receive papers from the Court electronically,discrimination against those without a computer or use of a computer?

4. Whether the standard to prevail in a Civil "Rico" complaint is higher than any other civil complaint?

5. Whether anyone would pay unlawfull taxes, particularly taxes on an unlawfull assessment, lien on non-existent land?

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Order of John C.Lifland,U.S.D.J.,dated Dec. 19.2005, No. 03-1409 (JCL)

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Order of John C. Lefland,U.S.D.J.,dated March 30,2006 No.03-1409 (JCL) A-7

Order dated 10/4/06, finding the appeal filed by Appellant Frivolous and seeking Damages and Double Costs is hereby DENIED. B. Ruggero J. Aldisert, Circuit Judge Dated 10/6/06 A-8

SUR PETITION of denial before Sirica, Chief Judge, Sloviter, McKee, Bendell, Ambro,Fuentes. Smith, Fisher. Chagares, Aldisert.*And Weis,* Circuit Judges dated Dec. 18,2006,For Rehearing En Banc, * As to panel Rehearing Only. A-9

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Judgment filed 12/26/06 for costs taxe in favor of Appellee Total Costs of Brief...$77.85 dated Oct. 4, 2006 A-12

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CONSTITUTIONAL AND STATUARY PROVISIONS INVOLVED

United States Constitution:

First Amendment "The freedom of speech.... And to petition the government for a redress of Grievances!"

Article V1 (2) "This Constitution, and the United States shall be made in pursuance thereof, and all Treaties made, or which shall be made, under the Authority of the United States, shall be the Supreme Law of the land, the Judges in every State shall be bound thereby, any thing in the Constitution or Laws of any State to the contrary not withstanding.

Seventh Amendment "Where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved"..

Ninth Amendment "provides that the enumerations in the Constitution of certain Rights, shall not be construed to deny or Disparage others retained by the people".

Fourteenth Amendment § Wolff v. McDonnell, 418 U.S.539,578-79 (1974) stating that due process claims of the 14th amendment guarantees citizen access to present claims of wrongdoing.

N.J. Constitution

N.J. Const. Art. 1 (a) "All political power
Is inherent in the people. Government is
Instituted for the protection, security, and
Benefit of the people, and they have the right
At all times to alter or reform the same whenever
the public good may require it".

Article VIII, Taxation & Finances
1 (a) Property shall be assessed for taxation
under general laws and by uniform rules. All
real property assessed and taxed locally or by
the State for allotment and payment to taxing
districts shall be assessed according to the same
standard of value, except as otherwise permitted
herein, and such real property shall be taxed
at the general tax rate of the taxing district in
which the property is situated, for the use of
such taxing district

STATUTES

28 U.S.C. sec.1254.Courts of appeals,certiorari;
certified questions:
Cases in the courts of appeals may be reviewed by
the Supreme Court by the following methods:
(l) By writ of certiorari granted upon the petition of
any party to any civil or criminal case, before or
after rendition of judgment or decree;
(2) By certification at any time by a court of
appeals of any question of law in any civil or

criminal case as to which instructions are desired, and upon such certification the Supreme Court may give binding instructions or require the entire record to be sent up for decision of the entire matter in controversy".

28U.S.C.1291. Final decision of district courts. The courts of appeals (other than the United States Court of Appeals for the Federal (Circuit) shall have jurisdiction of appeals from all final decisions of the district courts of the United States.

28 U.S.C. Sec.1331 Federal Question. " The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States".

28 U.S.C. Sec. 1339.Postal Matters. "The district courts shall have original jurisdiction of any civil action arising under any act of Congress relating to the postal service..

28 U.S.C. Sec. 1341. "The district courts shall not enjoin, suspend or restrain the assessment, levy or collection of any tax under State law where a plain, speedy and efficient remedy may be had in the courts of such state".

28 U.S.C. Sec. 1355 (a) "The district courts shall have original Jurisdiction, exclusive of the courts of the States, of any action or proceeding for the recovery or enforcement of any fine penalty or

forfeiture, pecuniary or otherwise, incurred under any Act of Congress"

28 U.S.C. Sec. 2106. Determination. "The Supreme Court or any other court of Appellate jurisdiction may affirm, modify, vacate, set aside or reverse any judgment, decree, order of a court lawfully brought before it for review, and may remand the cause and direct the entry of such appropriate judgment, decree, or order, or require such further proceedings to be had as may be just under the circumstances".

28 U.S.C. Sec. 2111. Harmless error. "On hearing of any appeal or writ of certiorari in any case the court shall give judgment after an examination of the record without regard to errors or defects which do not affect the substantial rights of the parties".

F.R.C.P. 6 (e)."Additional time after Service by Mail. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon the party and the notice or paper is served upon the party by mail, 3 days shall be added to the prescribed period".

F.RC.P.9 (b) "In all averments of fraud or mistake, the circumstances constituting fraud or mistake shall be stated with particularity, Malice, intent,

knowledge, and other condition or mind of a person May be averred generally.

F.R.C.P.12(b) (6) "failure to state a claim upon which relief can be granted".

F.R.C.P .56 (c) SUMMARY JUDGMENT Motion And Proceedings thereon. "The motion shall be Served at least 10 days before the time fixed for the hearing"

I

Ilse Heinemeyer, Petitioner respect-
Fully petitions for a writ of certiorari to
Review the decision of the United States
Court of appeals for the Third Circuit Court
Of Appeals.

OPINIONS BELOW

The "Not Precedential" opinion of the
United States Court of The Third Circuit is un-
Reported and attached hereto (A- 1)

JURISDICTION

On or about October 4, 2006, the United
States Court of appeals for the Third Circuit
Issued its opinion affirming the Judgment of
The district court (A- 7) affirming that the
Seeming late notion was timely filed as to the
December Order.

On or about October 6,2006 the United
States Court of Appeals for The Third Circuit
Filed an order stating "The foregoing motion by
Appellee for an Order Finding the appeal filed
By the Appellant as Frivolous and Seeking
Damages and Double Costs is hereby"DENIED".
(A-8)

On December 18, 2006 a Sur Petition for Panel Rehearing en banc was denied. The court extended Petitioner's time within which to file the Petition for a Writ of Certiorari to May 17,2006. (A-9)

The Jurisdiction of this Court is invoked under 28 U.S.C. Sec. 1254 (1) (2), 1291,1331, 1339, 1355(a),1339, 2106 and 2111, and 18 U.S.C.1961 et.seq. 18 U.S.C.Sec. 1341, (Mail Fraud)

STATEMENT OF THE CASE

Ilse Heinemeyer and her late husband (he died Easter Sunday 4/11/04) filed a Civil RICO amended complaint on Oct 3rd, 2003. It is a new complaint created by the conduct of the Mgr.-CEO, Thomas Atkins of the entity the Corp. of Scotch Plains as result of a successful tax appeal in the New Jersey Tax Court. The tax court issued a Judgment pursuant to the Freeze Act Statute N.J.S.A.54:4-51A8 for the year 1993 and 1994 instead of the usual three years because the new tax assessor (he was hired Sept. 1994, the previous tax assessor was admitted to Carrier Clinic) lowed the taxes another $2,000, for the year 1995. The Respondents wrote a letter to the Court stating they had no objection, therefore did not attend the judgment hearing.

But for the fact that Heinemeyer filed a tax appeal she would never have discovered the unlawfull assessment lien on a non existent half acre of land. Her neighbor also discovered they had an unlawfull assessment lien on that very same non existent half acre, this is double billing.

To uphold Heinemeyer's assessment the CEO ordered a Certified Appraisal to be used for trial purposes only. Heinemeyer was mailed a copy directly from the Certified Appraisal Corp., therefore she had it marked for identification but could not enter it into evidence. The Appraisal report contained the official entity's tax map, and calculated the lot area based on the dimensions, the lot was 2.455 acres not 2.97 acres. They also lowered the assessment by $41,400. The CEO withheld that certified assessment from evidence, otherwise the burden of proof would have shifted to the respondents. The Certified Appraisal did prove beyond a reasonable doubt the lot size was wrong and the assessment was much too high.

The Opinion of the Circuit Judges dated Oct. 4, 2006 (A- 1) and Judge Lifland's orders dated Dec. 19,1995 (A-4 -7) and March 30, 2006 stated she did not prove the conduct of the CEO was with intent, there were no genuine issues of material fact and that Heinemeyer was trying to relitigate the previous case, it was res judicata and that Heinemeyer filed a writ of certiorari after the state case therefore the case was closed. To make matters more difficult dismissed the U.S. District Appeals Court "with prejudice".

The N. J. Tax Court did not go beyond the year 1993 for the unlawful lien on the non existent half acre. Therefore as any other tax payer would do filed an appeal with the Appellate Div, of N. J. for a refund of the bogus, unlawful assessment lien, a real estate tax, on the half acre of non existent property since May of 1960. Despite the fact that the Appellate Div. of N.J. granted a refund pursuant to the correction of errors Statute N. J. S. A. 54:4-51A7 for the years 1990,1991,1992 and the year on appeal 1993.Heinemeyer has not received that refund, and has not received the reduction of her successful tax appeal until the 1995-1996 tax bill.

The U.S. District Court over-looked and, or ignored the genuine issues of material fact supported by documentation not before the N.J.Tax Court. The Certified Appraisal was not before the Tax Court withheld deliberately by the CEO, the Final Statement dated June 5th and 12th,1996, this clearly proved beyond a reasonable doubt credites were taken back, there was no refund pursuant to the correction of errors statute (the only issue referring to the appellate court) N.J.S.A.54:4-51A7 ordered by the Appellate Court, The false certified statements from two Township attornies and the CEO that Heinemeyer filed a writ of certiorari and was denied, does warrant this Court's intervention.

The court also ignored the fact that the CEO had the genuine issues of material fact, he had the

former owners property record, Heinemeyer's property record, her neighbors property record card and former owner's property record, also clearly indicating the land assessments were based on acreage, clearly disproving beyond a reasonable doubt the letter dated 1972 from the former Twp. Engineer,P.E. and L.S. stating Heinemeyer's property assessment is based on frontage and depth and he would correct the tax map immediately was a fraud on two points, the tax map was never corrected and the land assessment was based on acreage. A simple mathematical error the four corner rule applies could easilyhave been corrected, a small refund should have bee given instead of covering it up.

It was also clear the tax assessor lowered Heinemeyer's taxes to $170,200 confirming the Certified Appraisal for the year 1993, The CEO even issued a check for overpayment of the 1994 taxes in the amount of $1,832.38 which proves beyond a reasonable doubt by the new evidence in the June 1996 final statement evidence not before the appellate court,was deducted from the final statement. This extortion pursuant to N.J.S.18 Sec.196l et seq. has continued. Heinemeyer's tax bills have been paid based on the original assessment until the 1995-1996 bill.

If the papers are disjointed or repetitive it is because this is Heinemeyer's first attempt on the computer in different libraries.

REASONS WHY A WRIT OF CERTIORARI SHOULD BE GRANTED

Heinemeyer discovered the unlawful billing of this unlawful assessment lien, a debt in the form of a tax after she filed a tax appeals in the N.J. Tax Court for the year 1993.

It was also discovered that the letter written to her husband (who died a tragic death on Easter Sunday April 1 1, 2004) confirming a phone call from Brewster S Burns, P. E. & L.S. Township Engineer dated Aug. 4, 1972 was a fraud. There is no statute of limitation on fraud, apparently it runs from the date of discovery which was after she filed her tax appeal. He stated in the letter and he also called on the phone, the letter stated:

"Your lot will be altered from 2.967, as shown on the tax map to 2.43 acres. This change will be made immediately. As you know, you are not being taxes on the basis of the acreage figure but rather on the basis of your frontage and depth, so the change in acreage is only for the purpose of correcting the record.". Signed Brewster S. .Burns, P. E. & L. S. Township Engineer

Therefore that fraudulent letter is a violation of 18U.S.C. Sec.1961, and Sec. 1341, This genuine issue of material fact and law was know to the CEO and Manager Thomas Atkins, however also overlooked by the Court or just simply ignored.

The CEO ordered the Certified Appraisal dated Aug. 23, 1994, funded by the Tax Payers with instructions to the Certified Appraisers it was to be used for a tax appeal , therefore a copy was mailed directly to Heinemeyer. This Certified Appraisal was withheld from evidence, even though it was marked for identification by Mrs. Heinemeyer. There was no protective order or gag order placed on this very important evidence, a genuine issue of material fact, It is new evidence in this RICO complaint. The appraisers enclosed a true copy of the Corp. of Scotch Plains' certified tax map. The appraisers arrived at the true lot size by calculation based on the lot dimensions listed on the map. The lot was 2.455 acres not 2.97 acres. They also arrived at a reduction of $41,400. That is why the CEO refused to submit it into evidence with deliberate intent even though he had all the facts with supporting documents and knew the Certified Appraisal was correct, The Court also overlooked and/or simply ignored this very important issue of material fact, law:

Crowe v. Henry,C.A.5 (La) 1997,115.F 3d 294 "As predicate acts under RICO, mail fraud and wire fraud require, inter alia, evidence of intent to defraud that is, evidence of scheme to defraud by false or fraudulent pretense, representation, or promises, circumstantial evidence can be sufficient".,

U.S. v. Quintamilla,N.D.ill.,1991, 769 F Supp. 687, affirmed 2 F.3rd 1469. "Continuity requirement of RICO May be met by either showing series of

related predicate acts extending over substantial period of time or establishing threat of continued racketeering activity".

THE QUESTIONS PRESENTED ARE IMPORTANT TO THE GENERAL PUBLIC

It is discrimination against the elderly because they have not been brought up with computers and might not desire to waste the few years they have left to devote to the computer. However by not being able to use the computer are denied their first amendment right of freedom of speech and to petition this U.S. Supreme Court because this court does not accept typewritten papers.

QUESTION NO. 1. Judge Lifland was prejudiced by the fraudulent statement of the Respondents, the Corp. of Scotch Plains' that a writ of certiorari was filed by Heinemeyer. The CEO, Thomas Atkins made the statement in his certification. Douglas Hansen, Esq. (now deceased) made the same statement throughout his papers and certification. The most recent statement was made in Brian J. Levine's, esq. certification dated July 26, 2006, "denial of the writ of certiorari by the United States Supreme Court", and also stated throughout his papers. With full knowledge that a writ of certiorari was not filed .

It appears Judge Lifland was prejudiced by that statement by the Respondents because he ruled that

in essence Heinemeyer exhausted all her remedies in the Federal Court.

The CEO received a copy of the letter dated Dec.30, 1996, from the former Township attorney Martin Allen, Esq. addressed to Michael Ross the new tax assessor, hired Sept. of 1994, which stated:
:

"Enclosed please find copy of letter from the OfficeU. S. Supreme Courtdenying Mrs. Heinemeyer's application for an extension of time within which to file a Petition for a Writ of Certiorari. We all hope that this now closes this matter. If you have any questions, please feel free to call me".

QUESTION NO. 2

Can a government entity keep illegal money that does not belong to them from an assessment lien on a half acre of non-existent property, particularly when that very same half acre of non existent land was also paid by her neighbor, and is a violation of 18U.S.C.Sec.1961(a) extortion, and 18U,S.C.Sec.1341 (mail Fraud) ? Each mailing is a separate violation of both statutes, and establishes a pattern. This is also a violation of 28 U.S.C. Sec.1339 giving the district courts original jurisdiction of any civil action arising under any act of Congress relating to the postal service, using the Federal Post Office to collect an unlawful debt for an assessment lien on nothing. The former owners of Heinemeyer and her neighbor also paid that assessment lien on

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the same non existent half acre of nothing. This is repugnant to both the U.S. and N.J. Constitution.

QUESTION No. 3. Heinemeyer's motion for reconsideration and clarification was denied because the court could not serve papers electronically. Because she did not own or understand the computer (since that time she uses the library computers and gets help there). Her motion was hand delivered to the U.S. District Court in Newark stamped filed eight business days After the date of service by the District Court. The Court entered the order on 12/21/05, postmarked 12/27/05 and received by her on 12/29/05 it was dismissed with prejudice and marked Closed. In order to remedy the decision she filed a Motion for reconsideration which was filed dismissal. In violation of her first, seventh, fourteenth and article six, of the U.S. Constitution and Article 1 (a) and VIII of the N.J. Constitution.

Pursuant to Local Rule 7.1 (i) which creates a specific procedure by which a party may, within 10 business days after entry of an Order, request the District Court Judge or Magistrate Judge take a second look at any decision.

If in fact that order was electronically served her Motion for Reconsideration and clarification would have a least been read or considered. It took six days for the order to be mailed and eight days until the order was received by Heinemeyer.

F.R.C.P. 6 (e)."Additional time after Service by Mail. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon the party and the notice or paper is served upon the party by mail, 3 days shall be added to the prescribed period".

QUESTION No. 4. Is the standard to prevail in a Civil Rico complaint the same as a criminal Rico complaint and is the standard higher than any other civil complaint, which is by preponderance of the evidence..

Heinemeyer proved beyond a reasonable doubt the 1972 fraudulent phone call and letter from the township engineer who also was a land surveyor is calculated by acreage, not frontage and depth. The CEO Thomas Atkins also knew during and after this situation that Heinemeyer did not receive the refund under N.J.S.A. 54:51A7, the correction of errors statute for overpayment of the same half acre or non existent land she and her neighbor were mailed unlawful bills to pay an unlawful debt for the years 1990.1991,1992 and the base year 1993. This statute is over used by Some or ignored, it is a "loop hole" statute. The respondents should have refunded the overpayment of non-existent land unlawfully billed to two different tax payers for the same half acre assessment lien on nothing, pursuant to:

N.J.S.A.54:4-54. Correction of errors; assessment against or payment on wrong property refund

" Where by mistake property real or personal property has been twice entered and assessed on the tax duplicate, the governing body of the taxing district or the County Board of taxation may order and cause the tax record to be corrected and if the tax has been twice paid the governing body of the taxing district shall refund the excessive payment without interest".

FECHT v.PRICE. CO.,70 F3d 1078,1082 (9th Cir,1995) "The plaintiff must set forth, as part of the circumstances constituting fraud, an explanation as to why the disputed statement was untrue or misleading when made".

KEYSTONE INS. CO. V. Houghton, 973 F.2d 1125 (3d Cir. 1988). "The court held that "the limitations period for a civil RICO claim runs from the date plaintiff knew or should have known that the elements of the civil RICO cause of action existed."id.at 1130.."The court went on to state that if "there is further injury to the Plaintiff or further predicate acts occur..the actual period shall run from the time when plaintiff knew or should have known of the last injury or the last predicate act which is part of the same pattern of racketeering activity".

The RICO Act did not abrogate common-law absolute immunity protecting members of state legislature from suit relating to their performance of legislative activities, no such abrogation would be implied, absent clear congressional intent, and was silent as to legislative privilege. CHAPPELL v. ROBBINS, C.A.9 (Cal.) 1996,73 F.3d 918. Local government should to held to the same standard.

Pursuant to 18U.S.C. Sec. 1964 (c) Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefore in any appropriate United States District Court and shall recover threefold the damage she sustains and the cost of the suit, includ ing a reasonable attorney's fee" Heinemeyer filed this RICO action to receive the money extorted from her for bogus unlawfull bills for a half acre of non existent land under N.J.S.A.54:4-54. This issue should be address. On Aug. 24th at a council meeting televised a man came up to the microphone and stated he was assessed for a n extra bathroom he did not have and a finished basement he did not have, He was told nothing could be done, "too late". He also complained that he was still being billed for the non existent improvements. The practice must be stopped. It appears on the local level one must file in the law division and in the McShain case.

"Taxpayers were entitled to refund of excessive taxes paid for years when lot was twice entered and assessed", McSHAIN v. EVESHAM Tp. 163 N. J. Super 522, 395 A.2d 251 (L.1978) This is a case on point except for the fact an assessment lien was put on a half acre of non existent property paid for by two different property owners, even worse because double billing was involved. This is a decision of the law division, a plenary decision, it continues: "This section providing immunity to municipality for injury caused by act or omission in interpretation or application of any law relating to a tax did not protect municipality from liability for ministerial or clerical mistake in assessing real estate taxes against persons who did not own the reality". McSHAIN v. EVESHAM Tp., 163 N.J.522, 395 A.2d 251 (L.1978).

QUESTION NO.5. No one would pay unlawful taxes particularly on an assessment lien on non existent land. Where does it state an assessment lien is legal which in reality is a real estate tax. If taxes are not paid on time interest is charged. Therefore interest should be given for the excess taxes paid on an assessment lien on nothing.

28 U.S.C. 2111. Harmless error. "On hearing of any appeal or writ of certiorari in any case the court shall give judgment after an examination of the record without regard to errors or defects which do not affect the substantial rights of the parties".

THE DECISION OF THE COURT OF APPEALS IS ERRONEOUS

For the Court to agree with the Respondents' defense that a Writ of Certiorari was filed by Heinemeyer and denied is simply not true, it is not a harmless error.

Attacking a statement that is not even true does not make sense and promoted the intentional willful prejudicial decision. This was not a matter of relitigating the appellate Division. This is a new case filed under Civil RICO in the U.S. District Court of Appeals, with new evidence and as a result of another predicate act by the CEO's conduct , the Final Statement dated June 5th an 12th, 1996,when Heinemeyer discovered the Mgr./CEO would not refund the taxes they owed under two state statutes, N.J.S.A. 54:5-54, the Correction and Errors Statute and N.J.S.A. 54:51A8 the Freeze Act Judgment for the years 1993 and 1994, violating 18U.S.C.A.1961 (l)(A) and 1341, this genuine issue of material fact and law was not before the tax court or the N,J. Appellate Div. The Certified Appraisal, was withheld from evidence by the CEO also not before the tax court or N.J. Appellate Div. Both important documents are new evidence for this Civil RICO complaint. Res Judicata is not an issue these major issue were not litigated.

The Court of appeals was remarkably indifferent to this important issue of public interest to all tax payers since all LEGITIMATE taxes are completely

out of hand. This indifference is incompatible with a proper regard for principles of local government. To defend a case such as the Petitioner's is a drain on all the tax payers. More accountability, accuracy,

The CEO and respondents clearly demonstrated by their conduct they was covering up the fraud. As in LOPEZ v. SWYER 62 N.J.267,300A2d 563 (1973) in a case of fraud. The period of limitations, in equity, begin to run only from discovery of fraud or the time when, by reasonable diligence, it could have been discovered"

"where prior to time they demanded reimbursement, taxpayers did not have notice or reason to know that their assessment included property which they did not own, court would refuse to apply any statute of limitations". McSHAIN v. EVESHAM TP. 163 N.J.Super 522, 395 A.2d 251 (1978)

Ethics and morals are needed in the local entities, particularly official abuse under the color of their respective offices.

This Court should grant Certiorari for all the reasons given to prevent the Court of Appeals erroneous decision in this case. The Court of appeals decision also has immense and very

troubling implications for local entities that fund their services with ill gotten gains. This practice must be stopped to protect all the innocent·tax payers in the future from unnecessary legal costs to simply have the money that does not belong to the entity. Unfortunately Heinemeyer was chosen to be the "Poster Elder" to dare challenge " the powers that be". The McSHAIN v. EVESHAM" case is a plenary case on point from the Law division.

The is a new case with new evidence pursuant to the Federal and State Law both the U.S. and N.J. Constitution, Federal Statutes, Federal Civil Practice, Local Federal Rules, and State Statutes.

Pursuant to the N.J. Constitution under:
Article V111, Taxation and Finance Section 1.
1. (a) Property shall be assessed for taxation under general laws and by uniform rules. All "real" property assessed and taxed locally or by the State for allotment and payment to taxing districts shall be assessed according to the same standard of value.

In addition to l8 U.S.C. Sec. 1961 extortion and l8 U.S.C Sec. 134l Mail fraud intervention is requested because the CEO Mr. Atkins willfully, with full knowledge of all the facts supported with genuine issues of material fact and evidence (known to him before Heinemeyer filed her tax appeal) and with intent withheld the Certified Appraisal. That is the new evidence for filing the RICO complaint. The

burden of proof should have shifted in the U.S. District Court of appeals to the respondents. Because of the CEO's conduct with full knowledge of all the genuine material issues of fact with supporting documentation the following applies:

28 U.S.C. Sec. 1331. Federal Question: "The district courts shall have original jurisdiction of all civil action arising under the Constitution laws or treaties of the United States". Particularly Article V1 (2) "The Constitution, and the United States shall be made in pursuance thereof, and all Treaties made, or which shall be made, under the Authority of the United States, shall be the Supreme Law of the land, the Judges in every State shall be bound thereby, any thing in the Constitution or Laws of any state to the contrary not wthstanding". Therefore,

28 U.S.C. Sec. 1339, Postal Matters, "The district courts shall have original jurisdiction of any civil action arising under any Act of Congress relating to postal service". By mailing bogus unlawfull bills for an unlawfull debt. Also a violation of 18 U.S.C. Sec. 1341.

28 U. S.C. 1341, taxes by States, does not apply."The district courts shall not enjoin, suspend or restrain assessments, levy or collection of any tax under state law where a plain speedy and efficient remedy may be had in the courts of the state '.

Two attornies and the CEO all stated Heinemeyer filed a writ of certiorari that was denied because if was filed out of time in all their papers. Judge Lefland's decision was based on that fraudulent statement by dismissing her case with prejudice and also marked it CLOSED.

The refund under N.J.S.A. 54:51A7 for the unlawful payment of the assessment lien on a half acre of non-existent property (already paid for by the neighboring property for the same non-existent half acre) was listed as a refund for the years 1990. 1991 1992 and 1993 were listed on the Final Statement dated June 5 and June 12, 1996. Heinemeyer paid her tax bill based on the original asessment. There was no refund under the Freeze Act N.J.S.A. 54:51A-8 dated 1/25/95. The refund check dated 3/27/95 for over payment of taxes based on the Freeze Act in the amount of $1,832.38 was deducted from the Final Statement, the unlawfull payment of the assessment lien for the half acre of nothing was not deducted from that check. The credit of $945.83 was deducted from her payment of the second quarter of her 1995 tax bill based on the original assessment for the first two quarters of 1995 tax bill which was based on the original assessment. $1,264.05 plus $38.34 was deducted for the year 1995 from the final statement, $356,56 more was deducted then Heinemeyer's credit for the first two quarters of 1995. The extortion continued. As in

Towers Financial Corp. v. Solomon, N. D. Ill.1989, 126 F.R.D. 331, "Federal Civil rule requiring particularity in averments of fraud or mistake applied to RICO claim only to extend that claim was based on racketeering acts involving fraud, so not every element of RICO had to be pled with particularity; in respects other than fraud allegations, liberal notice pleading philosophy of federal rules applied".

The U.S. District Court overlooked or ignored this genuine issue of material fact, and law.

This new Civil RICO complaint was filed based on 18 U.S.C. Sec. 1291, 1341 and 1994. The issues were proof positive beyond a reasonable doubt that Certified Appraisal clearly indicated the official tax map was incorrect and never corrected in 1972 and the assessment was lowered by $41,400 for the year 1993 and confirmed by the new tax assess for the year 1995. The refund for over payment of taxes for the year 1994 stipulated to by the two respondent attornies in the amount of $1,832.38 was taken deducted from the final statement. The two attornies explanation of the "Total taxes refunded after adjustment 1990-1995 was $205.58 and Total interest rounded after adjustment 1990-1995 was $443.96 Total $549.54. Respondents in actuality violated N.J.S.A. 54:51A-7 and N.J.S.A.54:51A-8. These facts were known to the CEO and Judge Lifland.

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Gechter v. Davidson, 116 F.3d 1454, 1458 (fed. Cir. 1997) "A district court…may not merely state its findings in conclusory terms, but must provide sufficient detail to elucidate the reasoning by which the court reached its ultimate finding on an issue of fact or conclusion on an issue of law; otherwise, the appellate court is unable to carry out its appellate review function. Indeed, as to the facts it must also find subsidiary facts 'specially', and not just the ultimate fact, here of anticipation. If it fails to do so, its decision will ordinarily by vacated".

28U.S.C.1291. Final decision of district courts. The courts of appeals (other than the United States Court of Appeals for the Federal (Circuit) shall have jurisdiction of appeals from all final decisions of the district courts of the United States.

CONCLUSION

For the foregoing reasons, Petitioner respectfully submit that this Petition for A Writ of Certiorari should be granted . The Questions Presented are of general interest to the public. The ruling in Heinemeyer's case clearly states local officials do not have to abide by their position of trust and are allowed to abuse their official positions, be obfuscating the issue.

Township officials are there to serve the people, their salaries paid by the people (all the tax payers), at the very least when a mistake is discovered it is mandatory by law to refund over payment pursuant to N.J.S.A. 54:51A7 for three years and the present year.

In Heinemeyer's situation the mistake was discovered after she filed a tax appeal for the year 1993 that a letter written to her in 1972 was a fraud, her property was not assessed by frontage and the tax map was never corrected. The original property record cards and the 1994 Certified Appraisal with the official tax map, proved beyond a reasonable doubt that her taxes were based on acreage since May of 1960 and an assessment lien was paid for a non existent half acre of NOTHING until the middle of 1995. Therefore N.J.S.A.54:4-58 applies, All taxes should be returned with interest. The statute is there with supporting case law for this very reason.

Respectfully submitted,

Ilse Heinemeyer

Ilse Heinemeyer,Pro Se
Petitioner

Dated May 14,2007

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NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 06-2336

ILSE HEINEMEYER,

Appellant

v.

TOWNSHIP OF SCOTCH PLAINS

On Appeal From the United States District Court
For the District of New Jersey
(D.N.J. Civ. No. 03-cv-1409)
District Judge: John C. Lifland

Submitted Under Third Circuit LAR 34.1(a)
September 20, 2006

fore: FISHER, ALDISERT AND WEIS, CIRCUIT JUDGES.

(Filed October 4, 2006)

OPINION

PER CURIAM

Isle Heinemeyer appeals the dismissal of her pro se complaint by the United States District Court for the District of New Jersey. For the reasons below, we will affirm the District Court's judgment.

On October 3, 2003, Heinemeyer filed an amended pro se complaint against defendants, the Township of Scotch Plains and Thomas Atkins, the Township Manager. She alleged that defendants violated the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §~ 1961, 1964(c) (RICO), by overcharging her property tax for over 30 years. The District Court granted defendants' motion for summary judgment because Heinemeyer did not show a prima facie case of a RICO violation. After the District Court denied Heinemeyer's motion for reconsideration as time-barred, she appealed.'

We have appellate jurisdiction pursuant to 28 U.S.C. ~ 1291. Our standard of review is plenary. See .USX Corp v.Liberty Mut. Ins. Co~, 444 F.3d 192, 197 (3d Cir. 2006). We may affirm the District Court's order if, when viewing the evidence in the light most favorable to the non-moving party, there is "no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. *56(c).*

'Because the District Court's order of December 21, 2005, which granted summary judgment to defendants, was not accompanied by a separate document that triggered the typical 30-day appeal period, Heinemeyer's seemingly late notice of appeal fits in the safe harbor Fed. R. Civ. P. *58* and FRAP 4(a)(7) provide, and was timely filed as to the December order.

Heinemeyer argues that the District Court erred in granting defendants' motion for summary judgment and denying her motion for reconsideration.[2] She argues that defendants violated the RICO statute by erroneously calculating her property taxes for over 30 years. For essentially the same reasons set forth by the District Court, we agree that Heinemeyer's RICO claim against defendants fails as a matter of law. Defendant Township of Scotch Plains is a municipal corporation and is thus immune to RICO claims. See Genty v. Resolution Trust Corp., 937 F.2d 899, 914 (3d Cir. 1991) (holding that "a civil claim brought under § 1964(c) of the RICO Act, with its mandatory

award of treble damages which are punitive in character, cannot be maintained against a municipal corporation"). Moreover, Heinemeyer has not shown "(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity" with respect to defendant Atkins. Lum v. Bank of America, 361 F.3d 217, 223 (3d Cir. 2004); ~ also Beck v. Prupis, *529* U.S. 494, *505* (2000) (holding that a conspiracy claim under RICO must involve an act of racketeering or an act that is otherwise unlawful under the statute). Here, there is no evidence in the summary judgment record that Atkins committed any "racketeering activity" under § 196 1(1). See Fed. R. Civ. P. 56(e) (if the moving party establishes that

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2 We agree with the District Court that Heinemeyer untimely filed her motion for reconsideration. The District Court's order granting summary judgment was entered on Decembe~21, 2005. Heinemeyer had 10 days from this date to file her motion. See Fed. R. Civ. P. 59(e). However, she untimely filed her motion on January 11, 2006. Furthermore, even if the District Court erred in failing to construe Heinemeyer's pro se motion as a Fed. R. Civ. P. 60(b) motion, any error was harmless. Heinemeyer's motion provided no evidence that defendant Atkins committed any "racketeering activity" under
§ 1961(1).there is no genuine issue of material fact for trial, the burden shifts to the non-moving party to produce evidence of a genuine issue). Accordingly, we will affirm the judgment of the District Court.

CLOSED

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ILSE HEINEMEYER,

Plaintiff,

V

ORDER
Civil Action No: 03-1409
(JCL)

TOWNSHIP OF SCOTCH PLAINS,

Defendant.

LIFLAND, District Judge

Before the Court is the Motion for Summary Judgment filed by defendants Township of Scotch Plains ("Township") and Thomas E. Atkins ("Atkins"), Township Manager, and the Cross Motion for Summary Judgment filed by pro se plaintiff, Ilse Heinemeyer.[1] For the reasons expressed below, Defendants' Motion is granted.

1 Plaintiff identifies her papers as "Opposition to Defendant, Corporation of Scotch Plains' Motion for Summary Judgment and. .. Cross Motion for Summary Judgment against Defendant, The Corporation of Scotch Plains." After an exhaustive review of her submissions, the Court determines that her cross motion is, in reality, nothing more than opposition to Defendants' summary judgment
motion and, accordingly, will be treated as such.

On October 3, 2003, Plaintiff filed a one-count amended

Complaint in this Court claiming a civil violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §~ 1961, 1964(c) ("RICO"), allegedly arising out of a property tax dispute with the Township. Prior to filing this federal lawsuit, Plaintiff litigated the underlying tax dispute in the municipal and state courts of New Jersey, up through the Appellate Division. Heinemeyer. Scotch Plains, No. A-l 110-94 (App. Div. Dec. 13, 1995). The Appellate Division considered Plaintiffs claim that she had been overtaxed since 1960, and ruled that even if it were true, Plaintiffs remedy was restricted to the state's Correction of Errors Statute, N.J.S.A~ § 54~5.S-7, which limits any refund to three years of back taxes. Plaintiff thereafter filed petitions for certiorari with the New Jersey Supreme Court and U.S. Supreme Court. Each petition was denied. Apparently unhappy with the outcome of her case, Plaintiff filed the instant civil RICO action. (See Certification of Douglas W. Hansen, Esq., and Ex.A, at35.)

After a thorough examination of the record and the submissions in connection with these motions, the Court concludes that Plaintiff has failed to establish a prima facie case of civil RICO. Plaintiff claims that Defendants violated 18 U.S.C. § 1964 (c).[2] As an initial matter, the Court notes that municipal corporations, like the Township here, are immune from civil liability under § 1964(c) of the RICO statute. Genty v. Resolution Trust Corn., 937 F.2d 899, 914 (3d Cir. 1991) (holding that "a civil clThri brought under section 1964(c) of the RICO Act, with its mandatory award of treble damages which are punitive in character, cannot be maintained against a municipal corporation"). Thus, Plaintiffs claim against the Township fails as a matter of law. -

Turning to defendant Atkins, in order to withstand summary judgment on a civil RICO claim, Plaintiff must point to evidence that demonstrates "(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity." Lum v. Bank of America, 361 F.3d 217, 223 (3d Cir. 2004). Although difficult to discern from her papers, it appears the gist of Plaintiffs claim is that Atkins committed the predicate acts of mail fraud and extortion by mailing allegedly false tax bills to Plaintiff. There is

no evidence in the record to support an allegation that Atkins acted intentionally to defraud Plaintiff or to extort payments from her. Indeed, what is more clear to the Court is that by filing this civil RICO law suit, Plaintiff is attempting to re-open her previously litigated tax dispute with the Township. In fact, Plaintiff fully admitted

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2 Plaintiff fails to identify which subsection of § 1.962 is specifically at issue at her deposition that the motivation in bringing this action was to appeal the Appellate Division's decision from *1995.* (Hanson Cert., Ex. A at 35)

Plaintiff cannot point to any evidence that supports the prima facie elements of her civil RICO claim against defendant Atkins. Furthermore, principles of res judicata prevent her re-litigation of the underlying tax dispute. Finally, the Township cannot be held liable for civil RICO. Thus, summary judgment dismissing the civil RICO claim against both Defendants is appropriate.

Accordingly, **IT IS** on this 19th day of December 2005,

ORDERED that the Defendants' Motion for Summary Judgment dismissing the Amended Complaint with prejudice is granted.

/s/John C Lifland, U.S.D.J.

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Page 1 of 2

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ILSE HEINEMEYER,

Plaintiff,

V.

ORDER
Civil Action No: 03-1409 (JCL)

TOWNSHIP OF SCOTCH PLAINS,

Defendant.

LIFLAND, District Judge

Before the Court is pro se plaintiff use Heinemeyer' s ("Heinemeyer") motion for reconsideration of the Court's Order of December 19, 2005 which granted summary judgment in favor of defendants Township of Scotch Plains ("Township") and Thomas E. Atkins ("Atkins"), Township Manager. For the reasons expressed below, Plaintiffs motion is denied.

The Order of December 19,2005.was filed on December 21,2005. Local Civil Rule 7.1(i) mandates that a "motion for reconsideration shall be served and filed within 10 business days after the entry of the order." I-Ieinemeyer's motion for reconsideration was filed with this Court on January 11, 2006. Not counting nonbusiness days or federal holidays, I-Ieinemeyer' s motion was untimely filed as the deadline for filing was January 6, 2006.

Accordingly, **IT IS** on this 30th day of March 2006

ORDERED that the motion for reconsideration of the Order of December 19, 2005 of Plaintiff use Heinemeyer is denied.

/s/ John C. Lifland, U.S.D.J.

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

October 4,2006

Docket No. 06-2336

ILSE HEI7NEMEYER, Appellant

V.

TOWNSHIP OF SCOTCH PLAINS

(District of New Jersey Civil No. 03-cv-0 1409)

Present: FISHER, ALDISERT AND WEIS, Circuit Judge

1. Appellec's Motion Pursuant to FRAP 38 for an Order Finding the Appeal Filed by Appellant was Frivolous and Seeking Damages and Double Costs.

2. Response filed by Appellant to Appellee's Motion Pursuant to FRAP 38 For an Order Finding the Appeal Filed by the Appellant was Frivolous And Seeking Damages and Double Costs.

/s! Dana Moore
Dana Moore, Case Manager
(267) 299-4927

ORDER

The foregoing motion by Appellee for an Order Finding the Appeal Filed by Appellant as Frivolous and Seeking Damages and Double Costs is hereby DENIED.

By the Court,

Dated: October 6, 2006

DMM/cc: Ms. use Heinemeyer,
Brian J. Levine, Esq.

/s/ Ruggero J. Aldisert
Circuit Judge

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No.

ILSE HEINEMEYER, Appellant

v.

TOWNSHIP OF SCOTCH PLAINS
(District of New Jersey Civil No.03-cv-01409)

BEFORE; SCIRICA, Chief Judge, SLOVITER, McKEE, RENDELL,BARRY,ANBRO,FUENTES, SMITH, FISHER CHAGARES,ALDISERT,*AND WEIS,*CIRCUIT JUDGES

SUR PETITION FOR PANEL REHEARING WITH SUGGESSTION FOR REHEARING EN BANC

The petition for rehearing filed by Petition having been submitted to the judges who participated in the decision of This Court, and to all the other available circuit judges in Active service, and no judge who concurred in the decision Having asked for rehearing, and a majority of the circuit judg Of the circuit in regular active service not having voted for Rehearing by the court en banc; the petition for hearing is DENIED.

BY THE COURT:

/s/Ruggero J.Aldisert
United States Circuit Judge

DATED:December 18, 2006
DDM/cc:Ms.Ilse Heinemeyer
Brian J. Levine,Esq.

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*As to Panel Rehearing Only

Dated: October 6, 2006
DMM/cc: Ms. use Heinemeyer, Esq. Brian J. Levine, Esq.

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

NO. 06-233 6

ILSE HEINEMEYER,

Appellant

V.

TOWNSHIP OF SCOTCH PLAINS

On Appeal From the United States District Court
For the District of New Jersey
(D.N.J. Civ. No. 03-cv-1409)
District Judge: John C. Lifland

Submitted Under Third Circuit LAR 34.1(a)
September 20, 2006

Before: FISHER, ALDISERT AND WEIS, CIRCUIT JUDGES.

JUDGMENT

This cause came on to be heard on the record from the United States District Court for the District of New Jersey and was submitted under Third Circuit LAR 34.1. On Consideration whereof, it is now here

ORDERED AND ADJUDGED by this Court that the Judgment of the district Court entered March 31, 2006, Be and the same is hereby affirmed. Costs taxed against the Appellant. All of the above in accordance with the opinion of this Court.

ATTEST;

/s/Marcia M.Waldron
Clerk

DATED; October 4,2006

Costs taxed in favor of Appellee as follows:

Total Costs for Brief..... $77.85

Certified as a true copy and issued in lieu of a formal mandate on December 26, 2006

Teste: Marcia M. Waldron

Clerk, United States Court of Appeals for the Third Circuit.

A True Copy:

Marcia M. Waldron

Marcia M. Waldron, Cle